

Telephone:
(916) 445-0255



Thomas W. Hayes
Auditor General

STATE OF CALIFORNIA
Office of the Auditor General
660 J STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814

January 23, 1984

P-343.1

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

This letter provides follow-up information on the Department of Health Services' (department) Superfund Program, a program we discussed in our November 1983 report addressing the State's management of hazardous waste.* In this letter, we present information on contracts let by the department using Superfund Program monies. We discuss the number of contracts let, the contract review process within the department, the contract review process of other agencies, and the amount of time that these reviews take. We also identify problems in the department's Superfund Program contracting process, and we provide recommendations to improve the contracting process. We have discussed the contents of this report with officials from the Department of Health Services.

Since July 1982, the Department of Health Services has let 40 contracts and 16 contract amendments using Superfund Program monies. Before these contracts are let, they go through five levels of review within the department, and they may also be reviewed by the Department of Finance and the Department of General Services. We found that the reviews within the department averaged 81 days and that the reviews by other departments averaged 35 days. To reduce the processing time for these contracts, the department should identify steps in the contracting process that can be done concurrently or that can be eliminated, and the department should consider giving priority to Superfund Program contracts. The department should also develop and implement a contracting procedures manual and a contract monitoring system.

*This report is entitled "The State's Hazardous Waste Management Program: Some Improvement, But More Needs To Be Done," Report P-343, November 1983.

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
January 23, 1984
Page 2

Furthermore, in letting contracts, the department should follow procedures that meet the intent of provisions of the State Contract Act and the State Administrative Manual. Moreover, the Legislature should not give the department an unqualified exemption from the State Contract Act and the State Administrative Manual.

NUMBER OF CONTRACTS LET
USING SUPERFUND MONIES

Since July 1982, the department has let 40 contracts and 16 contract amendments for various services related to its administration of the Superfund Program. The department has let contracts to clean up hazardous waste sites and releases of hazardous materials, contracts to study the effects of exposure to hazardous materials, contracts to have other state agencies provide needed services, contracts to reimburse other entities for costs related to the cleanup of hazardous waste sites, and a contract to hire one staff person. Table 1 below shows the types of contracts and contract amendments let by the department.

TABLE 1

NUMBER OF SUPERFUND PROGRAM
CONTRACTS AND CONTRACT AMENDMENTS
July 1, 1982 to January 4, 1984

<u>Type of Contract</u>	<u>Number of Contracts</u>	<u>Number of Amendments</u>
To clean up hazardous waste sites	11	8
To clean up releases of hazardous material	7	4
For health studies	6	4
With state agencies for needed services	12	0
To reimburse other entities*	3	0
To hire staff	<u>1</u>	<u>0</u>
Total	<u>40</u>	<u>16</u>

*The department let three contracts to reimburse other entities for costs they incurred to clean up hazardous waste sites.

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
January 23, 1984
Page 3

THE DEPARTMENT OF HEALTH SERVICES' REVIEW OF SUPERFUND PROGRAM CONTRACTS

The department's Toxic Substances Control Division (division) initiates many of the State's Superfund Program contracts. The division develops the request for proposal, evaluates proposals, and selects a contractor. After the division selects a contractor, the department's contract review process begins. Each Superfund Program contract passes through five steps of review within the department: reviews by the Operations Management Committee, the Budget Section, the Toxic Substances Control Division, the Contract Management Section, and the Accounting Section.

Operations Management Committee Review

Effective August 1983, the department continued the statewide freeze on all contracts for consulting services. To gain exemption for a Superfund Program contract, the Toxic Substances Control Division submits a freeze exemption request to the department's Operations Management Committee. The committee considers the effect that the contract will have on the State's General Fund and either approves or disapproves the request for exemption. Since October 1983, however, the department has exempted from the freeze exemption process Superfund Program contracts to clean up hazardous waste sites.

Budget Section Review

The division submits a fiscal approval form to the department's Budget Section. The Budget Section determines if funding is available and appropriate. If funding is available, the Budget Section approves the fiscal approval form.

Toxic Substance Control Division Review

The division chief reviews the Superfund Program contract for its clarity and content. The division chief approves the contract after it has been negotiated and finalized. When the division review is completed, the division submits the contract to the Contract Management Section.

Contract Management Section Review

The Contract Management Section reviews the Superfund Program contract to ensure that the contract clearly states the work to be performed and that the contract is prepared according to department and state regulations.

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
January 23, 1984
Page 4

The Contract Management Section may also require the department's Office of Legal Review to review the contract. Following the Contract Management Section's review, the contract is sent to the contractor for signature. The signed contract is returned to the Contract Management Section and then sent to the department's Accounting Section.

Accounting Section Review

The Accounting Section reviews the Superfund Program contract to ensure that funds are available before committing them to a contract. Once funds have been committed, the Superfund Program contract is sent back to the Contract Management Section for final signatures.

REVIEWS BY OTHER DEPARTMENTS OF SUPERFUND PROGRAM CONTRACTS

In addition to the reviews by the department, a Superfund Program contract may also be reviewed by the Department of Finance and the Department of General Services. These reviews by other departments occur after the department has completed its reviews.* After all reviews have been completed, the department's Contract Management Section executes the contract.

Department of Finance Review

The Department of Finance may request to review state contracts to ensure that they fall within the responsibilities of the contracting department. In addition, the Department of Finance reviews the funding for the contracting department. After the Department of Finance approves the contract, it is sent to the Department of General Services for review. However, since the passage of Chapter 1208, Statutes of 1982, which changed State contracting procedures, review by the Department of Finance has not been mandatory. Moreover, Chapter 1044, Statutes of 1983, exempted from review by the Department of Finance those Superfund Program contracts to clean up releases of hazardous waste materials and contracts involving imminent and substantial danger.

*The State Personnel Board may also review contracts involving personal services.

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
January 23, 1984
Page 5

Department of
General Services Review

The Department of General Services reviews state contracts to see that contracts are prepared according to state policies and procedures and to determine whether funds for contracts are legally available. However, since the passage of Chapter 1044, Statutes of 1983, all contracts to clean up releases of hazardous waste materials and contracts involving imminent and substantial danger have been exempt from review by the Department of General Services. However, the Department of General Services continues to review Superfund Program contracts that do not involve an emergency.

LENGTH OF THE
CONTRACT REVIEW PROCESS

To determine the time it takes for Superfund Program contracts to pass through the review process, we calculated the review time for the Department of Health Services' internal reviews, the review time for the reviews by the Department of Finance and the Department of General Services, and the combined review time for both the internal and the external reviews. The internal review time for eleven contracts and eight associated amendments let by the department to clean up hazardous waste sites averaged 81 days. The review time for these contracts ranged from 20 days to 196 days. Two of the contracts and two of the amendments were reviewed by the Department of Finance and four contracts and two amendments were reviewed by the Department of General Services. The external review time averaged 35 days and ranged from one day to 66 days. The combined review time for all the cleanup contracts averaged 93 days and ranged from 20 days to 196 days.

Table 2 shows the internal review time and the external review time for the contracts the department let between July 1, 1982, and January 4, 1984, to clean up hazardous waste sites.

TABLE 2

REVIEW TIME FOR SUPERFUND PROGRAM
 CONTRACTS AND AMENDMENTS
July 1, 1982 to January 4, 1984

<u>Contracts and Amendments</u>			
<u>Review Time (In Days)</u>	<u>Internal Review</u>	<u>External Review</u>	<u>Combined Review*</u>
0 to 30	1	3	1
31 to 60	7	2	5
61 to 90	5	1	4
91 to 120	3	0	3
more than 120	<u>3</u>	<u>0</u>	<u>6</u>
Total	<u>19</u>	<u>6</u>	<u>19</u>

*The combined review time is the time the contracts took to pass through the complete review process. This is either the internal review time or the internal and external review time for the contracts requiring approval by outside departments.

PROBLEMS IN THE SUPERFUND
 PROGRAM CONTRACTING PROCESS

In the following sections, we describe problems we identified in the department's Superfund Program contracting process and recommend ways to improve the contracting process.

Clarifying Responsibilities

Department staff did not know all the responsibilities of the other agencies involved in the contract process. For example, department staff were not informed that the Department of Finance no longer reviewed Superfund Program contracts. Consequently, the department still sent Superfund Program contracts to the Department of Finance for review. This review took an average of 32 days to complete.

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
January 23, 1984
Page 7

Recommendation

To clarify the responsibilities of all participants in the Superfund Program contracting process, the Department of Health Services should develop and maintain a contracting procedures manual for Superfund Program contracts that describes all steps involved in the contract process.

Establishing Concurrent Contract Reviews

Some steps in the Superfund Program contract review process may be accomplished concurrently. For example, the fiscal review can be done while the contract is being developed instead of after the contractor is selected. Conducting the fiscal review before the contractor is selected would reduce processing time by an average of 8 days.

The freeze exemption review could also be done during the development of the contract instead of after the contractor has been selected. If these steps were performed concurrently, processing time could be reduced by an average of 24 days.

In addition, the department could eliminate the freeze exemption review for all Superfund Program contracts. The department established the freeze exemption review to evaluate the effect of department contracts on the General Fund. Since Superfund Program contracts are funded from a special fund (the Hazardous Substances Account) and thus do not affect General Fund expenditures, the freeze exemption review for Superfund contracts is not necessary. According to the division chief, all freeze exemption requests for Superfund Program contracts have been approved.

According to the Deputy Director of the Toxic Substances Control Division, the division is currently reviewing the Superfund Program contract process to identify steps that can be performed concurrently or eliminated.

Recommendation

To expedite the Superfund Program contracting process, the Department of Health Services should continue to identify steps in the contracting process that can be performed concurrently or that can be eliminated.

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
January 23, 1984
Page 8

Establishing Contract Review Priorities

The Superfund Program contracts, in some instances, are not given priority in the review process. For example, the department's Accounting Section currently has a two-week backlog of contracts and does not give any priority to its reviews. If the Accounting Section were to give priority to Superfund Program contracts, its average review time of 12 days could be significantly reduced.

Recommendation

To further accelerate the Superfund Program contracting process, the Department of Health Services should consider giving Superfund Program contracts priority during departmental reviews.

Developing A Contract Monitoring System

Several Superfund Program contracts were not processed promptly because the department lacks an effective contract monitoring system. In one instance, the department sent the contractor an amended contract that was to be signed and returned to the department. The contractor did not return the amended contract, but the department did not become aware of this delay for over four months. In another instance, a contract that was to be processed expeditiously was held by the Department of Finance for 49 days. The department did not identify this delay until the contractor inquired about the status of the contract. In November 1983, the Toxic Substances Control Division implemented a weekly status report to improve its contract monitoring system.

Recommendation

The Department of Health Services should develop and implement an effective system for monitoring and scheduling Superfund Program contracts. This system should establish milestones for all the steps in the contract process, and it should monitor these milestones to ensure that they are achieved as planned. The Toxic Substances Control Division's weekly status report on contracts should identify these milestones so that management can identify delays and take corrective action. According to the Deputy Director of the Toxic Substances Control Division, the division is developing such a system.

Assemblyman Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
January 23, 1984
Page 9

Adhering to State
Contracting Policies

Our October 1983 report entitled "Review of Selected Contracts for Cleanup of the Stringfellow Toxic Waste Disposal Site" disclosed that the selection and effectiveness of contractors could be improved if the responsible agencies let contracts in accordance with the State Contract Act and the State Administrative Manual. The State established these laws and regulations to ensure that public agencies let contracts to qualified contractors at the lowest cost to the State.

Recommendation

In letting contracts, the Department of Health Services should follow procedures that meet the intent of provisions of the State Contract Act and the State Administrative Manual. The Legislature should not give the Department of Health Services an unqualified exemption from the State Contract Act and the State Administrative Manual.

Respectfully submitted,


THOMAS W. HAYES
Auditor General